



Town of Garrett Park
PO Box 84
4600 Waverly Avenue
Garrett Park, MD 20896

Regular Meeting of Town Council
Garrett Park Town Hall
10814 Kenilworth Avenue
Garrett Park, MD 20896

WEB MINUTES

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Meeting Call to Order: Mayor Carolyn Shawaker called the meeting to order at 7:30 PM. Present were Councilmembers Berry, Hansen, Irons, Mandel, and Wegner. Also present were Administrator Pratt, Margaret Soltan of the *Bugle*, and a number of residents.

Approval of Agenda: The agenda was approved as posted and the Mayor was authorized to take items out of order so as to accommodate the public hearings without objection.

Public Hearings (1):

- Ordinance 2008-02: Amending Section 402 - Building Setback Lines (b)(1)(1.1) "Front Yard Setback" - Mayor Shawaker called the public hearing to order and turned the floor over to Councilmember Irons who recounted the history of the ordinance's development and noted that the Montgomery County Council had been notified of the Town's intent to adopt it, as required by state law. (Copy of notification letter is attachment #1 to these minutes)

Councilmember Irons also noted a typographical error in the ordinance and **MOVED**

That the Town Council accepts the amended draft of Ordinance 2008-02. Councilmember Berry seconded the motion, which **PASSED** unanimously.

Councilmember Wegner **MOVED**

That the public hearing on proposed ordinance 2008-02 be closed. The motion was seconded by Councilmember Mandel and **PASSED** unanimously.

- Request for Variance: 4704 Clyde Ave. - Rodriguez/Schwartz (Continued from 03/10/2008 Meeting) - Lot under 8600 SF, Section 403(c)(1.1.3), requesting 120 SF deck in excess of 18% lot coverage. - Mayor Shawaker noted that no one was present on behalf of the applicant and so the hearing would be moved to later in the meeting.

- Demolition Permit Hearing: 11303 Rokeby Ave.: C. M. Conlan Contractors, Inc. – Mayor Shawaker noted that no one was present on behalf of the applicant and so the hearing would be moved to later in the meeting.

Mayor's Report:

- Mayor Shawaker reported on Maryland Municipal League (MML) legislation.
- Mayor Shawaker asked that Councilmembers try to attend the Montgomery County Chapter of MML meeting with the Montgomery County Council in the County Council Chamber on Thursday evening of this week.
- Mayor Shawaker noted that resident Barbara Rodes had worked with her to get unwanted delivery of *The Examiner* newspaper to residents stopped, and that a list of addresses had been provided to the newspaper's distributor.

Councilmember's Reports on Areas of Responsibility:

- Councilmember Wegner updated the Council on the current roads project, and on the work in Cambria Park. Regarding the road work, Councilmember Wegner reported that the depth of the milling of the old road surface had been reduced from 3 inches to 1.5 inches, as milling to the greater depth had caused disruption of the roadbed in a number of locations. This would result in some adjustment to the thickness of the overlay of new asphalt. The breaking up of the lowest layer of asphalt has required an increase in full-depth patching in some areas of Clyde and Albemarle Avenue and may slightly increase the cost of the project. Councilmember Berry asked for more information on the proposed future overlay of the repaired streets and Administrator Pratt agreed to contact VIEW Engineering, the Town's consulting engineers for the project, to get that information for the Council.

Public Hearings (2):

- Request for Variance: 4704 Clyde Ave. – Rodriguez/Schwartz (Continued from 03/10/2008 Meeting) – Lot under 8600 SF, Section 403(c)(1.1.3), requesting 120 SF deck in excess of 18% lot coverage.

Noting that the applicant, resident Leon Rodriguez, had arrived, Mayor Shawaker reconvened the public hearing on a request for a variance at 8:10 PM and turned the floor over to Councilmember Irons, who, noting the receipt of a letter from the applicant, asked Mr. Rodriguez if he would like to address the Council.

Mr. Rodriguez thanked the Mayor and Council, the Setback Advisory Committee and its chair, Harry Gordon, for the time and effort they had put into the review of his application. Mr. Rodriguez reviewed his letter of 11 April (Attachment #2 to these minutes), noting that he had addressed the issues raised by the Montgomery County v. Rotwein case to which Councilmembers had referred at the March hearing, and asked that Councilmembers consider the small scope of his project as they weighed its impact against the underlying policies of the building ordinance. Mr. Rodriguez then responded to questions from Councilmembers. There was extended discussion.

Councilmember Irons **MOVED**

That the application for a variance to permit the construction of a 120 square foot deck at the rear of 4704 Clyde Avenue (No. 020708-VA01) be denied. The motion was seconded by Councilmember Wegner who stated that he did not feel the criteria for establishing the existence of a hardship had been met. After discussion the motion was **DEFEATED**, with Councilmembers Berry, Hansen, and Mandel voting against and Councilmembers Irons and Wegner voting in favor.

Councilmember Mandel **MOVED**

That the application number 020708-VA01 for a variance to permit the construction of a 120 square foot deck at the rear of 4704 Clyde Avenue be granted with such conditions and findings as the Council may approve. Councilmember Irons noted that the findings of fact and conclusions of law would need to be carefully drawn to minimize the bulk of the deck and extent of the variance granted. Councilmember Wegner stated that he wants a clear statement of why the variance was granted in the Council's written opinion. Councilmember Mandel said that he would work to develop a draft of the findings of fact and conclusions of law for the Council to consider at the May meeting. The motion was then **PASSED** with Councilmembers Berry, Hansen, and Mandel voting yes and Councilmembers Irons and Wegner voting no.

Councilmember Berry **MOVED**

That the hearing be closed. Councilmember Irons seconded the motion, which **PASSED** unanimously at 9:00 PM. Councilmember Hansen left the meeting due to a family illness.

- Demolition Permit Hearing: 11303 Rokeby Ave.: C. M. Conlan Contractors, Inc. - Mayor Shawaker called the demolition hearing to order at 9:02 PM and turned the floor over to Councilmember Irons, who, noting that the applicant still did not have a representative present, asked Setback Advisory Committee Chair Harry Gordon to give the Council the committee's recommendation. Mr. Gordon said that the committee recommended that the Council grant the demolition permit. Resident Kevin Pope stated that he saw no reason to deny the permit. Resident Mario Grande asked Mr. Gordon about the location of the new home on the lot. Mr. Gordon stated that while the applicant had demonstrated that the new combined lot had a permissible building envelope, no building permit application for the construction of such a home had been submitted to the Town. Councilmember Wegner stated that he had some questions he wished to ask the applicant and would like the hearing continued until the next Council meeting.

Councilmember Irons **MOVED**

That the public hearing be continued until the next Council meeting. Councilmember Wegner seconded the motion. Councilmember Berry objected to the delay as unnecessary. Councilmember Irons stated that applicants generally appear at public hearings before a public body. The motion was **PASSED** with Councilmembers Irons, Mandel, and Wegner voting yes and Councilmember Berry voting no.

Councilmember Reports (Cont.):

- Councilmember Berry reported on the Parks and Open Space Committee activities, noting that the Committee was looking into replacing the play equipment at Cambria Park, was generally pleased with the work being done in Cambria Park, was working with the Arboretum Committee to decide what plantings were needed in Cambria Park after the construction was completed, and that the Committee would be focusing its attention on the Garrett-Waverly Park area in the next few months. Councilmember Berry also reported that Committee member Gene Brantley had resigned. Councilmember Berry also asked about the possibility of adding survey capability to the Town's website so that residents could express their opinion on various issues before the Town. Councilmember Mandel suggested that this might be better done on the Garrett Park Citizens Association website.
- Councilmember Irons reported the Historic Preservation Committee (HPC) had met on 5 April to discuss a number of issues. One of the issues was the proposed construction of an addition to the house at 10115 Montrose Avenue, the old Frost house, which is in the historic district. Councilmember Irons reported the HPC was also considering how to improve its posting on the new Town website, improving information on Town ordinances, and continuing work on the interactive Town historic walk pamphlet.
- Councilmember Mandel reported that the new Town website is up and that Office Assistant Elizabeth Henley was working hard on keeping it up to date. Councilmember Mandel also noted that he was working with Harry Gordon to improve provisions for Penn Place maintenance and repair.

Approval of Minutes:

- Councilmember Berry **MOVED**

That the minutes of the 03/10/2008 Regular Council Meeting be approved as distributed. Councilmember Wegner seconded the motion, which was **PASSED** with Councilmembers Berry, Irons, Mandel, and Wegner voting yes.

Action/Discussion:

- Adoption of Ordinance 2008-02: Amending Section 402 - Building Setback Lines (b)(1)(1.1) "Front Yard Setback"

Councilmember Irons **MOVED**

That Ordinance 2008-02, introduced at the February Town Council meeting, amended at the March Town Council meeting, and corrected for a typographical error during the public hearing held at the beginning of this evenings meeting, be adopted (a copy of the text of the ordinance is attachment #3 to these minutes). Councilmember Wegner seconded the motion, which was **PASSED** with Councilmembers Berry, Irons, Mandel, and Wegner voting yes.

- Introduction of Ordinance 2008-03: FY 2009 Operating & Capital Budget - Mayor Shawaker referred the Council to Ordinance 2008-03, the FY 2009 Operating & Capital Budget for the Town.

Councilmember Mandel **MOVED**

That Ordinance 2008-03: The FY 2009 Operating & Capital Budget (a copy of which is attachment #4 to these minutes) be introduced. Councilmember Wegner seconded the motion. Administrator Pratt briefly reviewed the details of the FY 2009 budget with the Council. The motion was **PASSED** with Councilmembers Berry, Irons, Mandel, and Wegner voting yes.

- Extension of Town Election Polling Hours to 7:00 AM to 7:30 PM - Clerk/Treasurer Pratt noted that under the terms of Town Charter Section 78-25 Conduct of Elections, that voting hours were set for Town Elections at 7:00 - 11:00 AM and 4:00 - 7:30 PM. However, the section also gave the Council the authority to extend these hours and that the Judges of Elections asked that the Council do so, eliminating the closure of the polls from 11:00 AM to 4:00 PM.

Councilmember Berry **MOVED**

That the voting hours for Town elections be extended to 7:00 AM to 7:30 PM. Councilmember Wegner seconded the motion, which **Passed** Councilmember Wegner seconded the motion, which was **PASSED** with Councilmembers Berry, Irons, Mandel, and Wegner voting yes.

Town Administrator Report:

- Monthly Financial Report - Administrator Pratt reviewed the monthly financial report with the Council and noted that he had legal bills to pay and that the budget for legal fees was almost completely expended. He asked that the Council transfer funds in the FY 2008 budget from Contingency to Legal Fees in the amount of \$10,000.

Councilmember Berry **MOVED**

That the Council authorizes the moving of \$10,000 from Contingency to Legal Fees in the FY 2008 Operating budget. Councilmember Wegner seconded the motion, which was **PASSED** with Councilmembers Berry, Irons, Mandel, and Wegner voting yes.

Adjournment: The meeting adjourned at 9:55 PM

Respectfully submitted

[TOWN SEAL]

Edwin Pratt, Jr., Clerk-Treasurer